IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Revision No.129 of 1992

Date of Decision: 28.3.2007

Joginder Pal .....Petitioner

Versus

State of Punjab .....Respondent

CORAM: HON'BLE MR. JUSTICE MEHTAB S. GILL

Present: Mr.Atul Lakhanpal, Advocate
for the petitioner.

Mr.S.S.Randhawa, Sr.DAG, Punjab.

MEHTAB S. GILL J.

This is a revision petition against the judgment dated 6.2.1992 of the learned Additional Sessions Judge, Jalandhar, whereby he convicted Joginder Singh son of Darshan Singh under Section 408/477-A IPC and sentenced him to undergo three years R.I. under Section 408 IPC and to pay a fine of Rs. 2000/-, in default to undergo three months R.I. He further convicted the petitioner under Section 477-A IPC for one year R.I.and to pay a fine of Rs. 1000/-, in default to undergo R.I. for three months.

The case of the prosecution is that petitioner/accused was working as Secretary of the Lalian Khurd Co-operative Agricultural Service Society Ltd.(hereinafter called 'the society'). Mohan Singh, Assistant Registrar of the Co-operative Society filed a complaint that Om Parkash,

Inspector Co-operative Societies(PW8) was asked to audit the accounts of the society from the period 1.7.1977 to 30.6.1978. Thereafter they were audited by Raghbir Singh, Sub Inspector but he did not submit the report. The audit from 30.6.79 was done by Sub Inspector Baldev Singh. He also did not submit the audit report. It was found on 1.10.80 that there had been misappropriation of Rs. 3,69,030.70 ps. Petitioner Joginder Pal admitted the said amount. Further, the complainant stated that petitioner along with Raghbir Singh and Baldev Singh misappropriated this amount.

Prosecution to prove its case brought into the witness box Mohan Singh, Assistant Registrar, Co-operative Societies as PW1, Sumer Chand as PW2, Inder Singh as PW3, Rattan Singh as PW4, Moola Singh as PW5, B.K.Sharma as PW6, S.C.Goel as PW7 and Om Parkash as PW8.

Learned counsel for the State has argued, that it is an admitted fact, that Joginder Pal was working as Cashier-cum-Secretary of the society. It was his duty to maintain the accounts. Inder Singh(PW3), Rattan Singh (PW4) and Om Parkash(PW8), who conducted the audit, found the amount having been embezzled by the petitioner. Sumer Chand(PW2)has stated that he paid Rs. 1819/- to the petitioner when he was working as Cashier-cum-Secretary of the society. Similarly another witness namely Moola Singh(PW5) has also stated that he deposited Rs. 4568/-with the petitioner when he was working as Cashier-cum-Secretary.

Learned counsel for the petitioner/accused has argued, that there is no evidence to show that the petitioner embezzled the amount of Rs. 2,48,874.35 ps. The complaint was lodged by Mohan Singh(PW1)who has stated, that the petitioner misappropriated Rs. 3,69,030.70 ps. No evidence has been brought on record to show that the petitioner committed

the offence of criminal breach of trust. Petitioner did not misappropriate the amount.

I have heard learned counsel for the parties and perused the impugned judgment and record with their assistance.

Petitioner/accused was working as Cashier-cum-Secretary of the society. Sumer Chand(PW1) has stated in his testimony, that he paid Rs. 1819/- to the petitioner as the petitioner was working as cashier. Similarly Moola Singh(PW5) has stated, that he deposited Rs. 4568/- with the petitioner. He has also brought on record his pass book Ex.PW5/1, in which the entry was stated so. Statements of Rattan Singh(PW4)who was the President of the society in the year 1978, Inder Singh(PW3)who was member of the society and Om Parkash Inspector(PW8) who had conducted the audit, have categorically stated that the amount was embezzled by the petitioner. No worthwhile cross-examination has been done on the witnesses and their statements have gone without any serious challenge by the defence. Petitioner vide his endorsement on Ex.PW6/A in the Cash Book Register, has admitted of his having embezzled and misappropriated the sum of Rs. 3, 69,030.70 ps. He has also admitted his writing Ex.PW6/A.

I do not find any infirmity in the judgment of the learned Additional Sessions Judge, Jalandhar. Conviction of the petitioner/accused is maintained.

Charge was framed on 23.8.1985. At that time his age was 45 years. At present the petitioner is about 66 years. The misappropriation is of the year 1980 and the revision is of the year 1992. The sword of conviction is hanging over the head of the petitioner for the last 27 years.

This itself is a punishment. Sentence of the petitioner/accused is modified to that already undergone.

With the above modification in sentence, revision petition is dismissed.

(MEHTAB S. GILL)
JUDGE

March 28, 2007
sunita